

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**HOMEWOOD COMPANY, L.L.C.;
LODES, INC.; and CARY S. and
DOROTHY B. BIERDEMAN
REVOCABLE TRUST**

PLAINTIFFS

v.

CASE NO. 3:14-cv-00907-HTW-LRA

**CITY OF PEARL, MISSISSIPPI;
and BRAD ROGERS, MAYOR**

DEFENDANTS

MOTION TO DISMISS

Come now Plaintiffs Homewood Company, LLC, Lodes, Inc. and Cary S. and Dorothy B. Bierdeman Revocable Trust (“Plaintiffs”), joined by all Intervenors and Defendant City of Pearl, Mississippi and move that the Court dismiss the above styled and numbered cause against the City of Pearl, Mississippi with prejudice. Plaintiffs and Intervenors further move that the Court dismiss this matter against Brad Rogers, former Mayor of the City of Pearl, Mississippi, and would show unto the Court as follows:

1. The Plaintiffs, Intervenors and Defendant City of Pearl, Mississippi have reached a settlement of all matters between them and desire that all claims in the subject litigation be dismissed as to all parties with prejudice; the Plaintiffs and Intervenors have offered to dismiss this matter as to Brad Rogers, former Mayor of Pearl, Mississippi, but he has not agreed to join this motion.

2. The Defendant Rogers has an appeal pending in the United States Court of Appeals for the Fifth Circuit wherein he seeks to be dismissed from these proceedings. Since the Plaintiffs and Intervenor do not intend to proceed further with their claims against this Defendant, they will file a motion in the Fifth Circuit seeking dismissal of the pending appeal because the issues raised therein are moot.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs, Intervenor and Defendant City of Pearl, Mississippi move that the Court enter a judgment of dismissal with prejudice of all claims involving the Plaintiffs, Intervenor and the Defendant City of Pearl, Mississippi; that the Court dismiss all claims of the Plaintiffs and Intervenor against the Defendant Rogers on such terms, if any, that the Court considers proper pursuant to the provisions of Rule 41(a)(2) of the Federal Rules of Civil Procedure, subject to further proceedings with respect to the pending appeal in the United States Court of Appeals for the Fifth Circuit.

DATED: November 9, 2017.

Respectfully submitted,

HOMEWOOD COMPANY, L.L.C.
LODES, INC.; and CARY S. and
DOROTHY B. BIERDEMAN
REVOCABLE TRUST, Plaintiffs
By and through their attorneys

s/ John G. Corlew
JOHN G. CORLEW (MSB #6526)

PEMBERTON PROPERTIES, LIMITED,
doing business as Pemberton Apartments;
PARK VILLA, L.L.C., doing business as East
Villa Apartments; PEARL PARTNERS, L.P.
doing business as Grande at Colony Park
Apartments; ALBERT MOORE HOME
BUILDERS, INCORPORATED, doing
business as Colonial Terrace Apartments;
WOOD GLEN, L.L.C., doing business as
Wood Glen Apartments; STEVE
MAUDING, doing business as Bavarian
Garden Apartments, doing business as Pearl
Manor Apartments; SHEILA MAULDING,
doing business as Pearl Manor Apartments,
doing business as 468 Place Townhomes;
WPB PROPERTIES, L.L.C., doing business
as Fox Run Apartments, Intervenor
By Their Attorney

/s/ Steven H. Smith

STEVEN H. SMITH

CITY OF PEARL, MISSISSIPPI, Defendant
By Its Attorney

/s/ Rusty Fortenberry

RUSTY FORTENBERRY

OF COUNSEL:

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that I have caused to be served via the Court's ECF system on the following:

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DATED: November 9, 2016.

s/ John G. Corlew
JOHN G. CORLEW